

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

CHARLOT JEAN RICE,)
)
)
Plaintiff,)
v.) Case No. CIV-19-578-D
)
)
POTTAWATOMIE COUNTY PUBLIC)
SAFETY CENTER TRUST *et al.*,)
)
)
Defendants.)

ORDER

The Court issued an Order [Doc. No. 2] that Plaintiff show cause why the case should not be dismissed for failure to timely effectuate service. Plaintiff responded to the Order to Show Cause [Doc. No. 3].

The show cause Order was issued based on insufficient service of process, and the Court was therefore required to give prior notice to the plaintiff under FED. R. CIV. P. 4(m). Among other things, the notice requirement affords the plaintiff the opportunity to show good cause for improper service. *See Espinoza v. United States*, 52 F.3d 838, 841 (10th Cir. 1995) (“The preliminary inquiry to be made under Rule 4(m) is whether the plaintiff has shown good cause for the failure to timely effect service.”).

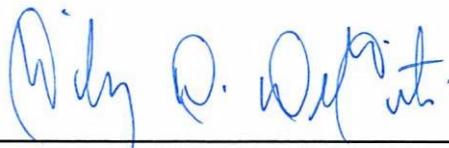
“If good cause is shown, the plaintiff is entitled to a mandatory extension of time. If the plaintiff fails to show good cause, the district court must still consider whether a permissive extension of time may be warranted.” *Id.* Indeed, a court must expressly consider a plaintiff’s argument regarding good cause, because “[w]ithout anything in the record to indicate how the district court made its determination with respect to the good

cause exception . . . appellate review is impossible.” *Sanders v. Sw. Bell Tel., L.P.*, 544 F.3d 1101, 1111 (10th Cir. 2008).

Plaintiff responded to the Order stating that issuance of summons was delayed to allow Plaintiff to successfully complete her drug court case. Further, Plaintiff’s counsel was involved in a high-conflict domestic case, was recovering from a two-level lumbar fusion, and was the primary caretaker for an elderly parent. Should this action be dismissed with prejudice, as contemplated by the show cause Order, it would likely be barred by the statute of limitations. The Court finds these circumstances constitute good cause shown.

IT IS THEREFORE ORDERED that Plaintiff effectuate service within fifteen (15) days of the issuance of this Order.

IT IS SO ORDERED this 6th day of March, 2020.



TIMOTHY D. DEGIUSTI
Chief United States District Judge